

### REMARKS

Applicant respectfully traverses the restriction requirement on the following grounds.

First, Applicant requests that the Office examine together the claims of Groups VIII and IX (claims 20-21 and claims 22-23, respectively), since the Action does not set forth any reasonable basis that these claims cannot be examined together. The claims are not directed to compositions of matter that are pure populations of drug sensitive and drug resistant cells, but rather to methods of distinguishing between them. Applicant respectfully contends that searching and examining these claims would not place an undue burden on the Office and ask that the claims of Groups VIII and IX be rejoined and examined.

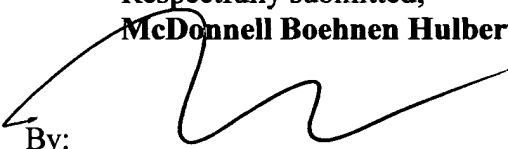
Second, Applicant traverses the election-of species requirement with regard to propidium iodide, Annexin V and a fluorescent dye. None of claims 20-21 or 22-23 contain a limitation relating to any of these species, and thus respectfully contend that these groups were included in the election-of-species requirement in error. Applicant thus requests that this requirement for an election be vacated before the claims are examined on the merits.

If the Examiner in charge of this application believes it to be helpful, he or she is invited to contact the undersigned attorney by telephone at (312) 913-0001.

Respectfully submitted,  
**McDonnell Boehnen Hulbert & Berghoff**

Date: March 6, 2006

By:

  
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